రిజిష్టర్డు నెం. ఎమ్.- 2062



పశ్చిమ గోదావరి జిల్లా రాజపత్రము

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అధికారమువలన ప్రచురించబడినది

నెం. 3(1) ఏలూరు, 2013వ సంవత్సరము, మార్చి నెల, 2వ తేది, శనివారము

CIVIL COURT - ELURU

I.P. No. 9/2011

Between :

Dandu Srinivasa Raju,
S/o Satyanarayana Raju,
C/o K. Ranga Rao,
Aged 53 years, Hindu,
R/o D. No. 28-1-53/30, Santhi Nagar,
7th line, Eluru.

-------Petitioner/Debtor

And

1 Gantasala Ramanjaneyulu,
S/o Balaramudu, Christian, Male,
Aged 47 years, Pisce Culture,
R/o Devi Chintapadu Village,
Mandavalli Mandal,
Kaikaluru, Krishna District.

2 The Official Receiver,
West Godavari District,
Eluru.

------Respondents

This petition coming to this day before me for disposal in the presence of C. H. Ramesh, Advocate for petitioner and of the respondents 1 and 2 are having been remained exparte, and upon hearing the counsel for petitioner and perusing the record, this Court made the following :-

ORDER :

This petition filed under Sections 10 of Provincial Insolvency Act, by the petitioner/ Debtor prays to Adjudicate him as an insolvent as he is unable to discharge the debts due to the respondents.

Chief affidavit of P.W.-1 filed, P.W.-1 is present and examined and P.W.-1 marked. The evidence P.W.-1 coupled Ex. P-1 establish that the Petitioner indebted to R-1 and he is unable to pay the same, Hence petitioner is allowed, Petitioner is declared as insolvent publish the same in Gazette. Official Receiver, West Godavari District, Eluru is directed to take possession of petition schedule property and administer the same. The office is directed to transmit the administration charges forthwith.

Pronounced by me in open Court, this the 20th day of December, 2012.

(Sd.),
Addl. Senior Civil Judge,
Eluru.
[Dis. No. 52

CIVIL COURT - ELURU

I.P. No. 47/2008

Between :

Mendem Suguna Raju

-------Petitioner/Creditor

And

1. Polavarapu Padma
2. Guavalli Satyavathi

------Respondents/Debtor and alience

This petition coming to this day before me for disposal in the presence of Sri N.S.K., Advocate for petitioner and of the respondents 1 and 2 are having been remained exparte, and upon hearing the counsel for petitioner and perusing the record this Court made the following :-

ORDER :

This petition filed under Sections 6 and 9 of Provincial Insolvency Act, by the petitioner/Creditor prays to 1st respondent as an insolvent and declaring that the sale deed dated 16-10-2008 executed by the 1st respondent infavour of the 2nd respondent in respect of schedule property is null and void and to appoint official receiver, West Godavari District, Eluru.

R-1 called absent no representation costs not paid R-1 is set exparte P.W.-1 and 2 are present and examined Ex.P.1 to P.4 are marked P.W.-3 is absent Chief affidavit of P.W-1 is achieved. The evidence of P.W.-1 is coupled with Ex-1 to P.-4 established R-1 committed an act of insolvency Petition is allowed R-1 is declared as an insolvent. Publish the same in Gazette. Official Receiver,West Godavari District, Eluru is directed to take possession of petition schedule property and administer the same. The office is directed to transmit the administration charges forthwith.

Pronounced by me in open Court, this the 2nd day of January, 2013.

(Sd.),
Addl. Senior Civil Judge,
Eluru.
[Dis. No. 50

CIVIL COURT - ELURU

I.P. No. 35/2010

Between :

Pujari Lakshmana Rao,
S/o Anjaneyulu,
Male, Hindu, Aged 42 years,
No avocation,
R/o D. No. 8-66,
Gundugolanukunta Colony,
Dwarka Tirumala Village and Mandal,
West Godavari District.

-------Petitioner/Debtor

And

1. Vikruthi Swamy,
S/o Manikyala Rao,
Hindu, Male, Aged 45 years, Business,
R/o D. No. 8-6-33, Eastern Street,
Dwarka Tirumala Village.
2. The Official Receiver,
West Godavari District,
Eluru.

------Respondents

This petition coming to this day before me for disposal in the presence of Sri A. Venkateswara Rao, Advocate for petitioner and of the respondents 1 and 2 are having been remained exparte, and upon hearing the counsel for petitioner and perusing the record, this Court made the following :-

ORDER :

This petition filed under Sections 10 of Provincial Insolvency Act, by the petitioner/Debtor prays to adjudicate him as an insolvent as he is unable to discharge the debts due to the respondents.

Chief affidavit of P.W.-1 filed, P.W.-1 is present and examined and P.W.-1 marked. The evidence P.W.-1 coupled Ex. P-1 establish that the Petitioner indebted to R-1 and he is unable to pay the same, Hence petitioner is allowed, Petitioner is declared as insolvent publish the same in Gazette. Official Receiver, West Godavari District, Eluru is directed to take possession of petition schedule property and administer the same. The office is directed to transmit the administration charges forthwith.

Pronounced by me in open Court, this the 2nd day of January, 2013.

(Sd.),
Addl. Senior Civil Judge,
Eluru.
[Dis. No. 51

CIVIL COURT - ELURU

I.P. No. 25/2012

Between :

Mola Konda Reddy
-------Petitioner

And

Venkata Krishna Steels and Irons
and 11 others
------Respondents

Notice is hereby given under Section 10 of Provincial Insolvency Act that the petitioner has applied to this Court, praying to adjudicate him as insolvent and appoint Official Receiver, West Godavari District, Eluru for administration of the estate of petitioner and distribution of dividends among the creditors and to protect the Petitioner form arrest for costs of the petition.

The petition stands posted to 26-2-2013.

(Sd.),
Addl. Senior Civil Judge,
Eluru.
[Dis. No. 48

CIVIL COURT - ELURU
I.P. No. 20/2008

Between :-

Kandula Siva Pratapa Raju
------Petitioner

And

1. Parepalli Pothuraju
@ Bommiraju
2. Kumpati Naga Satyavati
-----Respondents

This Petition coming on 13-9-2011 for final hearing before me in the presence of Sri K. Krishnamohan, Advocate for the petitioner and of Sri B. Jagannadha Reddy, Advocate for the 1st respondent and of Sri M. Kantha Rao, Advocate for the 2nd respondent and having stood over for consideration to this day, this Court delivered the following :

ORDER :-

This petition has been filed under Section 7 and 9 of Provincial Insolvency Act to adjudicate the 1st respondent as insolvent and to declare the sale deed dated 11-4-2008 executed by the 1st respondent in favour of the 2nd respondent is fraudulent, sham, nominal, null and void and to set aside the same.

The case of petitioner as per the petition averments is briefly as follows :- The 1st respondent borrowed an amount of Rs. 50,000/- from the petitioner on 1-3-2006 towards his family expenses and also to discharge his sundry debts and executed a promissory note in favour of the petitioner on the even date agreeing to repay the same with interest at 24 % per annum either to the petitioner or his order on demand. In spite of repeated demands made by the petitioner through mediators and eleders, the 1st respondent failed to pay the debt due under the suit promisssory note and dragging on the matter on one pretext or the other. The petitioner got issued a registered notice dated 3-4-2008 to the 1st respondent demanding him to repay the debt due under the pronote. The 1st respondent received the said notice and gave a reply with false allegations on 17-4-2008. The 1st respondent with a dishonest and fraudulent intention executed a sale deed dated 11-4-2008 in respect of the schedule property for an extent of 147 Sq. yards in favour of the 2nd respondent for an ostensible consideration of Rs. 1,40,500/- with a view to defeat and delay the bona fide claims of petitioner and other just creditors. The sale deed dated 11-4-2008 executed by the 1st respondent in favour of the 2nd respondent is a collusive act and fraudulent alienation and it does not bind on the petitioner and it is liable to be annulled under Sections 53 and 54 of the

Provincial Insolvency Act. After receipt of the demand notice for payment of debt due under the pronote got issued by the petitioner, the 1st respondent with a view to defeat and delay the bona fide claim of petitioner, with a dishonest intention, executed the sale deed dated 11-4-2008. As such, the 1st respondent has committed an act of insolvency and he is liable to be adjudged as insolvent. Hence, he filed this application.

3. The respondents 1 and 2 filed separate counters. The 1st defendant in his counter denied most of the allegations mentioned in the petition and further contended that he never borrowed an amount of Rs. 50,000/- and not executed promissory note in favour of petitioner on 1-3-2006, as he has no necessity to borrow the amount. The 1st respondent offered to sell his property to the 2nd respondent on 21-5-2006 and executed an agreement of sale in favour of the 2nd respondent by taking Rs. 1,20,000/- on the same day as advance. The 1st respondent executed the registered sale deed in favour of the 2nd respondent. There is no collusion between him and the 2nd respondent. The 1st respondent handed over physical possession to the 2nd respondent and shifted to Ramasingavaram village of Pedavegi Mandal along with his family. But surprisingly he received legal notice dated 3-4-2008 and this respondent immediately approached the petitioner along with elders and questioned the legal notice and that the petitioner threatened the 1st respondent and elders if the 1st respondent did not sell the plaint schedule property to him, he will create litigation over that property and drag the 1st respondent to courts. On that the 1st respondent issued a reply with all true facts. He denied all other allegations mentioned in the petition and prays to dismiss the petition with costs.

4. The 2nd respondent in his counter denied most of the allegations mentioned in the petition and further contended that there is no collusion between him and the 1st respondent. He purchased the scheduled propety from the 1st respondent for a valuable consideration with good faith on him, under an unregistered agreement of sale dated 21-5-2006 and took possession of the schedule property. Since then, he has been in physical possession and enjoyment of the same without any interruption by anybody at any point of time. The petitioner has got knowledge about the said sale transaction. The petitioner kept quite for all these days and to harass the 2nd respondent and to get unlawful and illegal gain from him, created the false litigation and the main intention of the petitioner is to drag the 2nd respondent to the court and pressurize the respondents 1 and 2 to come to terms to achieve his illegal and unlawful achievements. Hence, he prays to dismiss the petition with costs.

5. During the course of enquiry, the petitioner himself is examined as PW-1 and he examined two other persons who are said to be scribe and attestor of promissory note dated 1-3-2006 as PWs. and 2 and 3 besides marking Exs. A1 to A7. The 1st respondent examined himself as RW -1 and he examined a third party as RW -2 , the 2nd respondent examined himself as RW .3. No documents are marked on behalf of the respondents.

6. Heard both sides and perused the record.

7. Now, the point for consideration is whether the 1st respondent can be adjudged as insolvent under Section 9 of the Provincial Insolvency Act.

8. POINT :- The case of petitioner is that the 1st respondent borrowed an amount of Rs. 50,000/- from him on 1-3-2006 and executed a promissory note in his favour on the same day and thereafter he did not repay the same. Then he got issued a legal notice dated 3-4-2008 to the 1st respondent demanding the amount due. The 1st respondent received the said notice and got issued a reply notice dated 17-4-2008 with false and untenable allegations. The 1st respondent executed a sale deed on 11-4-2008 in respect of the schedule property in favour of the 2nd respondent in order to defeat and delay the bona fide claim of the petitioner with a fraudulent and dishonest intention. As such, it does

not bind on the petitioner and it is liable to be annulled under Section 53 and 54 of the Provincial Insolvency Act. As such, the 1st respondent committed an act of insolvency and therefore, he filed this application to adjudge the 1st respondent as insolvent.

9. The case of respondents in brief is that the 1st respondent never borrowed any amount and not executed any pronote in his favour and that he executed an agreement of sale on 21-5-2006 in favour of 2nd respondent after receiving advance sale consideration of Rs. 1,20,000/- and delivered possession of the schedule property to the 2nd respondent on 21-5-2006 under an unregistered agreement of sale. There is no collusion between the respondents. The petitioner unnecessarily dragged the respondents to Court with an intention to harass them and to come to the terms to achieve his illegal and unlawful achievements. Hence, they pray to dismiss the petition with costs.

10. Under Section 9 of the Provincial Insolvency Act, a creditor shall not be entiled to present an insolvency petition against a debtor unless -

(a) the debt owing by the debtor to the creditor, or if two or more creditors join in the petition, the aggregate amount of debts owing to such creditors, amounts to five hundred rupees, and

(b) the debt is a liquidated sum payable either immediately or at some certain future time, and

(c) the act of insolvency on which the petition is grounded has occurred within three months before the presentation of the petition :

So, as per Section 9 of the Provincial Insolvency Act, the petitioner has to establish that the debt owed by the 1st respondent to him is more than Rs. 500/- the debt should be a liquidated sum and that the debtor committed cum act of insolvency on which the petitioner has grounded as occurred within three months from the date of presentation of the petition.

11. Now, we have to see whether the petitioner is able to establish the above three conditions or not. Even though the 1st respondent denied the debt as pleaded by the petitioner in his affidavit, the petitioner herein filed Ex. A7. to establish that he filed O.S. No. 143/2009 against the 1st respondent herein basing on the promissory note dated 1-3-2006 for recovery of debt and the same was decreed on 28-2-2001 therfore, I feel that the evidence of PWs. 2 and 3 is not necessary to consider in the light of Ex. A7 document, as the finding was given by the competent Court on that aspect. So, as per Ex.A7 it makes clear that the petitioner is able to establish that the 1st respondent owed a sum more than Rs. 500/- to the petitioner and that it is a liquidated sum. As per Ex.A7, it makes clear that the petitioner herein has complied two conditions out of three as required under Section 9 of the Provincial Insolvency Act. It is an admitted fact that the 1st respondent executed a sale deed under Ex. A4 in respect of the petition schedule property in favour of the 2nd respondent. According to the respondents it is not collusive and that there was an agreement of sale between them dated 21-5-2006 and that R1 delivered possession of the schedule property to the 2nd respondent on 21-5-2006 itself and since then the 2nd respondent has been in possession and enjoyment of the same. But, the said agreement of sale was not marked as exhibit in this petition. More over RW .1 deposed in his cross-examination that he did not file any document to show that he executed an agreement of sale in favour of R.2 on 21-5-2006, agreeing to sell the petition schedule property and that he does not know if it was not mentioned in the sale deed dated 11-4-2008 about the alleged agreement of sale 21-5-2006. As seen from Ex.A4, it reveals that there is no reference about the alleged agreement of sale dated 21-5-2006. So, it makes clear that the case of respondents that R.2 purchased the schedule property under an agreement of sale dated 21-5-2006 is false and unbelievable and created one. More over, it further proves that the alienation of property between the respondents is only under Ex. A4

sale deed. The said Ex.A4 sale deed is dated 11-4-2008., whereas the petitioner herein filed this application on 1-5-2008. So, it appears that the act of insolvency i.e., selling of petition schedule property under Ex.A4 sale deed by the 1st respondent in favour of the 2nd respondent is within three months before filing of this petition. It further establishes that the petitioner is able to comply the 3rd condition as required under Section 9 of the Provincial Insolvency Act. Therefore, I feel that the petitioner is able to established that he is entitled to file the present petition and he is entitled to seek the relief of adjudication of 1st respondent as insolvent.

12. Coming to the other relief claimed by the petitioner to declare the sale deed dated 1-4-2008 executed by the 1st respondent in favour of 2nd respondent is fraudulent, sham, nominal and to set aside the same as per Section 53 and 54 of the Provincial Insolvency Act, the petitioner has to file a separate application seeking the said relief within the prescribed period of limitation. He is not entitiled to seek the above relief in this application. Accordingly, this point is answered.

13. In view of findings on the above point, the petitioner is entitled to the relief as prayed for.

14. In the result, the petition is allowed with costs adjudicating the 1st respondent as insolvent directing the Official Receiver, West Godavari District, Eluru to take possession of the petition schedule property and administer the same. The petitioner is at liberty to take steps as provided under Section 53 to 54(A) of Provincial Insolvency Act on a separate application concerning the annulment of sale deed dated 11-4-2008. The office is directed to transmit the administration charges forthwith.

Dictated to the personal Assistant transcribed by him, corrected and pronounced by me in open Court, this the 16th day of September, 2011.

(Sd.),
Addl. Senior Civil Judge,
Eluru.
[Dis.No. 66

CIVIL COURT - ELURU
I.P. No. 32/2009

Between :

Gummadi Janaki
-------Petitioner

And

1. Eluru Lakshminarayana
2. Eluru Lakshmi Durga
------Respondents

This petition coming to this day before me for disposal in the presence of Sri K. Bhaskara Rao, Advocate for petitioner and of the respondents 1 and 2 are having been remained exparte, and upon hearing the counsel for petitioner and perusing the record, this Court made the following :-

ORDER :

This petition filed under Sections 9 of Provincial Insolvency Act, by the petitioner/ Creditor prays to adjudicate respondents as insolvents and thereby set aside the sale deed dated 9-3-2009 executed in favour of the respondents in respect of the petition schedule property and to appoint the Official Receiver to take possession of the petition schedule property and to manage the same and to deposit the proceeds into Court and for costs of the petition.

Heard the counsel for petitioner and perused the record. The unchallenged evidence of PW.1 coupled with Exs. P1 to P3 proves the petition contents. Hence, I feel that the petitioner is entitled for relief as prayed for.

In the result, the petition is allowed with costs and the 1st respoondent is adjudged as insolvent and the petition B schedule property is vested with the Official Receiver, West Godavari District, Eluru for administration. The Office is directed to transmit the administration charges to the Official Receiver, West Godavri, Eluru forthwith.

Pronounced by me in open Court, this the 17th day of February, 2012.

(Sd.),
Addl. Senior Civil Judge,
Eluru.
[Dis.No. 67

CIVIL COURT - ELURU

I.P. No. 66/2011

Between :

Addepalli Nagendra Rao

-------Petitioner

And

1. Magunta Venkata Swamy
2. Bonala Naga Raju
3. Bollineni Satyanarayana
4. Penugonda Veera Venkata Srinivasa Rao
5. Gudapati Venkateswara Rao
6. Chinthapalli Babu Rao
7. Donaboyina Nageswara Rao
8. Bollipamu Srinu
9. Sri Lakshmi Enterprizes, Nallajerla. rep. by its proprietor, Rambabu
10. Satyadeva Steels, Tadepalligudem, rep. by its proprietor, Ramesh
11. Sai Priya Agencies, Unguturu, rep. by its proprietor, Mohana Rao
12. Badani Simhadri Raju
13. Nannapaneni Venkateswara Rao
14. Ramdev Steel Co., Veeravalli, rep. by its proprietor, Bala Krishna
15. Ramesh Steels, Vijayawada rep. by its proprietor, Ramesh.

------Respondents

Notice is hereby given under Section 10 of Provincial Insolvency Act that the petitioner has applied to this Court, praying to adjudicate him as insolvent and appoint Official Receiver, West Godavari District, Eluru for administration of the estate of petitioner and distribution of dividends among the creditors and to protect the petitioner form arrest for costs of the petition.

The petition stands posted to 2-3-2013.

(Sd.),
Addl. Senior Civil Judge,
Eluru.
[Dis. No. 75

CIVIL COURT - ELURU

I.P. No. 24/2011

Between :

Jayavarapu Chandra Rao

-------Petitioner

And

Tummuru Rama Mohana Reddy
and 3 others

------Respondents

This petition coming to this day before me for disposal in the presence of Sri D. Krishna Sastry,Advocate for petitioner and of the respondents 1 to 4 are having been remained exparte, and upon hearing the counsel for petitioner and perusing the record, this Court made the following :-

ORDER :

This petition filed under Sections 9 of Provincial Insolvency Act, by the petitioner/ Debtor prays to adjudicate the petitioner as Insolvent.

Heard the counsel for petitioner and perused the record. The unchallenged evidence of PW.1 coupled with Exs. P1 and 2 proves that liabilities of the petitioner exceeds his assets and unable to pay the debts.

In the result, the petition is allowed petitioner is declared as an Insolvent and publish the same in Official Receiver, West Godavari District, Eluru is hereby directed to take possession of petition Schedule property and administer the same. The Office is directed to transmit the administration charges to the Official Receiver,West Godavri, Eluru forthwith.

Pronounced by me in open Court, this the 30th day of January, 2013.

(Sd.),
Addl. Senior Civil Judge,
Eluru.
[Dis.No. 76

ముద్రణ కమీషనరుగారిచే ప్రభుత్వ ప్రాంతీయ ముద్రణాలయము, విజయవాడనందు ముద్రించబడి, జిల్లా కలెక్టరుగారిచే ప్రచురించబడినది.